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2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK

4 -----x  
5 JOSIAH GALLOWAY,

6 PLAINTIFF,

7

8 -against-

9

10 19 CV 5026 (AMD) (JO)

11

12 NASSAU COUNTY; THE INCORPORATED VILLAGE OF  
13 HEMPSTEAD; POLICE OFFICER STEVEN HOROWITZ,  
14 Shield No. 144; DETECTIVE MATTHEW ROSS,  
15 Shield No. 834; DETECTIVE CHARLES DECARO,  
16 Shield No. 1047; DETECTIVE RONALD LIPSON,  
17 Shield No. 1296; DETECTIVE THOMAS  
18 D'LUGINSKI, Shield No. 7900; DETECTIVE  
19 GEORGE DARIENZO, Shield No. 1038; DETECTIVE  
20 KEVIN CUNNINGHAM, Shield No. 112; DETECTIVE  
21 SERGEANT RICHARD DORSI; DETECTIVE RENE B.  
22 YAO; DETECTIVE CARL STRANGE, Shield No.  
23 1225; DETECTIVE JOSEPH P. SORTINO; JOHN and  
24 JANE DOE 1-20,

25

DEFENDANTS.

-----x

16

17 DATE: November 16, 2020  
18 TIME: 2:08 P.M.

19

20 DEPOSITION of the Defendant,  
21 MATTHEW ROSS, taken by the Plaintiff,  
22 pursuant to a Notice and to the Federal  
23 Rules of Civil Procedure, held via Veritext  
24 Virtual Zoom at the above date and time,  
25 before Cathy Leone, a Notary Public of the  
State of New York.

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2 A P P E A R A N C E S :

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4 ELEFTERAKIS, ELEFTERAKIS & PANEK

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MATTHEW ROSS, Shield No. 834; DETECTIVE

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7900; DETECTIVE GEORGE DARIENZO, Shield

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No. 1038; DETECTIVE KEVIN CUNNINGHAM,

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Shield No. 112; DETECTIVE SERGEANT

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RICHARD DORSI; DETECTIVE RENE B. YAO;

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DETECTIVE CARL STRANGE, Shield No. 1225;

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ALSO PRESENT:

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VERITEXT LEGAL SERVICES

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BY: EDAN COPE, Videographer

1 M. ROSS

2 By the time you retired in  
3 2017, approximately how many lineups have  
4 you conducted?

5 A. I don't know.

## 6 Q. More than 25?

7           A.       Definitely more than 25, but I  
8        don't remember how many.

9 Q. Was it more than 100?

10                   A.        Again, I don't remember how  
11                   many.

12 Q. Now, did you ever receive any  
13 training on how to conduct a lineup?

14 A. Yes.

15 Q. Did you receive training on  
16 conducting a lineup while you worked at  
17 NYPD?

18 A. No.

19 Q. So was your training from  
20 Nassau County?

21 A. Yes.

22 Q. I'm just asking for an  
23 approximate time period.

24                           When did you receive that  
25 training? Was it when you first came on as

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1 M. ROSS

2 an officer, was it later in your career or  
3 something else?

4 A. It was several times.

5 Q. Approximately when was the  
6 first time you received the training?

7 A. In the police academy.

8 Q. Do you remember what that  
9 training was like? Was it like classroom  
10 training, was it on-the-job training or  
11 something else?

12 MR. SOKOLOFF: Objection.

13 You can answer.

14 A. Classroom.

15 Q. You said classroom?

16 A. Yes, classroom.

17 MR. SOKOLOFF: Just pause  
18 before you answer and give me a  
19 chance to object, please.

20 THE WITNESS: You got it,  
21 Brian.

22 Q. What do you remember from that  
23 training?

24 MR. SOKOLOFF: Objection.

25 You can answer.

1 M. ROSS

2                   A.        Just that it was classroom  
3        instructions and what a lineup was and how  
4        they wanted it conducted in Nassau County.

5 Q. Okay. This might make it  
6 easier. Instead of parsing out when you  
7 received what training, just generally, in  
8 your training at Nassau County, what do you  
9 remember being taught in connection with  
10 lineups?

11 MR. SOKOLOFF: Objection.

12 | You can answer.

13           A.       The first time I received the  
14        training was from Detective Lieutenant  
15        Fleming in the police academy, and he was  
16        also the man who taught me when I went to  
17        the Eighth Squad.  He was also my  
18        supervisor or commanding officer.  He was  
19        the former commanding officer of Robbery  
20        Squad, and he sat with all of the  
21        detectives and went through how lineups  
22        would be conducted.

23 Q. And what specifically did he  
24 tell you about how lineups should be  
25 conducted?

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1 M. ROSS

2 MR. SOKOLOFF: Objection.

3 You can answer.

4 A. That when we run lineups in  
5 Nassau County, it is always in a seated  
6 position.

7 Q. Okay.

8 A. We make the height to be  
9 exactly the same height when people are  
10 sitting. We use sheets in front of the  
11 defendant and all of the fillers, so you  
12 can't see anything they are wearing and  
13 that the only thing that's really shown is  
14 that they will have a number on -- usually  
15 it is on their lap, and again, then he went  
16 over different specifics in lineups, but  
17 basically that was what we were taught.

18 Q. Okay.

19 Were you taught anything about  
20 the participants in the lineup wearing  
21 hats?

22 A. When? When I first learned it  
23 or as I was going through the, you know,  
24 other trainings? What part are you asking  
25 for?

1 M. ROSS

2 Q. That's a good question.

3 I guess really at any point in  
4 your training, did the subject of  
5 participants wearing hats come up?

6 A. Yes.

7 Q. What were you told about that?

8 A. Again, when I went to the  
9 Eighth Squad, Detective Lieutenant Fleming  
10 made us run lineups even on minor, minor  
11 case so we were familiar on how to do them,  
12 and that is one of the things that he  
13 brought up, that sometimes in certain cases  
14 people can change their appearances and the  
15 goal of the lineup is to make it as fair as  
16 we can for the defendant and to try the  
17 best to make everybody look the same.

18 Q. So how would that involve hats?

19 A. Well, like I said, in some  
20 cases people could change their  
21 appearances, so if that's a scenario where  
22 someone changed their appearance, and it is  
23 not possible to -- not really possible --  
24 probable to do that lineup that way, then  
25 you would try to make it uniformity where,

1 M. ROSS

2 again, if you had put hats on somebody to  
3 try to make everybody look the same, that's  
4 what we would do.

5 Q. Okay.

6 When you say try to make  
7 everyone look the same, are you trying to  
8 make everyone in the lineup look like the  
9 suspect or look like the description, or  
10 what is everyone supposed to look like?

11 MR. SOKOLOFF: Objection.

12 | You can answer.

13                   A.        We are trying to make everyone  
14        look the same, so it is as fair as it can  
15        be for the defendant.

16 Q. Now, in your experience  
17 conducting lineups, did you ever conduct a  
18 lineup with the suspect's criminal defense  
19 attorney present?

20 A. Many times.

21 Q. And in your experience, would  
22 the defense attorney be part of the  
23 prepping for the lineup and getting it set  
24 up?

25 MR. SOKOLOFF: Objection.